

International Trade Alert

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U.K. Announces “Magnitsky Act-style” Global Human Rights Sanctions and 49 Designations

July 7, 2020

1. Introduction

- As of 1:00 p.m. BST July 6, 2020, the GHR Regulation came into force, representing the introduction of the U.K.’s long awaited GHR Regime.
- The GHR Regime is the first standalone U.K. sanctions regime to be in current operation under the Sanctions and Anti-Money Laundering Act 2018. Various other U.K. sanctions regimes will take effect in the U.K. at the end of the transition period (currently scheduled for December 31, 2020).
- Under the GHR Regime, 47 individuals of Russian, Saudi Arabian and Myanmar/Burmese nationality, and two North Korean entities, are subject to financial sanctions and/or travel bans. Further designations are expected to follow, possibly including those engaged in China’s recent conduct in Hong Kong.
- The GHR Regulation marks a departure from the U.K.’s collective imposition of sanctions as a member of the European Union, in particular, as, post-Brexit, the U.K. will no longer be held back by the EU’s requirement for unanimity amongst member states before designations are made. The EU has yet to introduce a global sanctions regime to specifically address human rights violations.

2. Background

In September 2019, U.K. Foreign Secretary Dominic Raab announced the government’s intention to introduce unilateral post-Brexit ‘Magnitsky’ style sanctions for individuals deemed responsible for serious human rights abuses. So-called Magnitsky sanctions refer to the U.S. regime introduced to target officials responsible for the death of Russian tax lawyer Sergei Magnitsky, who died from mistreatment in a Russian prison in 2009, after revealing large-scale tax fraud. Similar regimes targeting human rights abusers exist in certain other countries, including Canada and Australia.

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3. GHR Regulation

(a) Current Designations

The framework for designating human rights offenders (the “GHR Regime”) is intended to target individuals and organizations from all over the world that are involved in serious human rights violations or abuses. The designations announced on July 6 pursuant to the [Global Human Rights Sanctions Regulations 2020](#) (the “GHR Regulation”) include:

- Twenty-five individuals of Russian nationality involved in the detention and mistreatment of Sergei Magnitsky before his death in November 2009, encapsulating several investigators, heads of detention centers/medical wards and court officials who together facilitated the mistreatment and denial of medical care to Sergei Magnitsky. All individuals are of Russian nationality, however, some were born in other countries (Uzbekistan, Azerbaijan).
- Twenty individuals of Saudi Arabian nationality who were involved in orchestrating or carrying out the unlawful killing of Jamal Khashoggi at the Saudi Consulate in Istanbul on October 2, 2018, and the concealment of evidence thereafter.
- Two members of the Myanmar military forces responsible for leading Tatmadaw troops and the human rights violations committed by the Tatmadaw against the Rohingya population in Rakhine state.
- Two North Korean state security ministries linked to the commission of human rights violations against prisoners (i.e., murder, torture, enslavement, forced labor).

(b) The Nature of the Sanctions in Place and Criteria for Designation

The GHR Regulation imposes (i) financial sanctions, in the form of an asset-freeze and a prohibition on making funds or economic resources available, directly or indirectly, to or for the benefit of designated persons, and (ii) a travel ban targeting designated persons.

Under the GHR Regulation, the Secretary of State is empowered to designate a person for the purpose of the financial sanctions and/or travel ban where there are reasonable grounds for suspecting they are an “involved person” (IP) in relation to certain human rights violations or abuses. The designation of such persons is intended to deter, and provide accountability for, such activities. The government clarifies in its [Explanatory Memorandum](#) that designations could apply to both state and non-state actors.

An IP is a person who is or has been involved in activities which, had they been carried out by or on behalf of a state within the territory of that state, would amount to a serious violation by that state of certain human rights. These rights include an individual’s: (i) right to life, (ii) right not to be subjected to torture or cruel, inhuman or degrading treatment or punishment, and/or (iii) right to be free from slavery, not to be held in servitude or required to perform forced or compulsory labor. A person will be involved in an activity under (i) to (iii) if they:

- Are responsible for or engage in such an activity.
- Facilitate, incite, promote or provide support for such conduct.
- Conceal evidence of such conduct.

- Provide financial services, or make available funds, economic resources, goods or technology that could contribute to such conduct, or to a person who is responsible for or engages in such conduct.
- Profit financially or obtains any other benefit from such conduct.
- Are responsible for the investigation or prosecution of such conduct and intentionally or recklessly fails to fulfil that responsibility.
- Contravene, or assist with the contravention of, the GHR Regulation.¹

An IP also includes those owned or controlled, directly or indirectly, as well as those acting on behalf of or at the direction of, or being a member or being associated with, persons involved in activities (i) to (iii) above.² The U.K.'s conditions for assessing ownership or control should also be considered against Schedule 1 to the GHR Regulation, which includes the U.K.'s comprehensive Post-Brexit rules for interpreting ownership or control that diverge from the assessment of ownership and/or control under the EU's sanctions. In particular, a less than 50 percent shareholding of an IP in an entity can, under certain circumstances, subject that entity to the same prohibitions as apply to the IP.

4. Potential China Designations

On July 2, U.K. Foreign Secretary Dominic Raab, during a House of Commons discussion on the new Hong Kong National Security legislation, stated that the forthcoming sanctions designations may include Chinese officials involved in this recent conduct in Hong Kong. As Chinese officials were not included in the designations published on July 6, we expect further designations of such individuals could follow shortly.

5. Takeaways

- With the U.K. no longer required to obtain EU-wide consensus to sanctions designations post-Brexit, the GHR Regime demonstrates that designations will be imposed more swiftly by the U.K. in response to political developments going forward.
- The introduction of an autonomous sanctions regime is also likely to signal the U.K.'s intention to adopt a more independent sanctions policy post-Brexit, rather than being strictly tied to what the EU does or has done before it.
- The Secretary of State has broad powers to impose sanctions designations under the GHR Regulations. There appears to be a considerable likelihood these will be utilized in the coming weeks to designate Chinese officials under the GHR Regime.

¹ GHR Regulation 6(3).

² GHR Regulation 6(2).